

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 100655-1 WO	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/SE2003/001272	International filing date (day/month/year) 13.08.2003	Priority date (day/month/year) 14.08.2002
International Patent Classification (IPC) or national classification and IPC C07D 471/04, A61K 31/437, A61K 31/506, A61K 31/496, A61P 11/06, A61P 37/08		
Applicant AstraZeneca AB et al		

- This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, comprising:
 - ☐ (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input type="checkbox"/> Box No. II | Priority |
| <input checked="" type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> Box No. VIII | Certain observations on the international application |

Date of submission of the demand 27.02.2004	Date of completion of this report 02.12.2004
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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/SE2003/001272

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4)
- ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*
- ☒ the international application as originally filed/furnished
- ☐ the description:
- pages _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ the claims:
- pages _____ as originally filed/furnished
- pages* _____ as amended (together with any statement) under Article 19
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ the drawings:
- pages _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to the sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 7

because:

☒ the said international application, or the said claims Nos. 7 relate to the following subject matter which does not require an international preliminary examination (*specify*):

See PCT Rule 67.1.(iv).: Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods.

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in the Annex C-*bis* of the Administrative Instructions.

☐ See Supplemental Box for further details.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>3-6, 8-11</u>	YES
	Claims	<u>1-2</u>	NO
Inventive step (IS)	Claims		YES
	Claims	<u>1-6, 8-11</u>	NO
Industrial applicability (IA)	Claims	<u>1-6, 8-11</u>	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

Cited documents:

D1) Journal of the Chemical Society, (Section C), Vol. 11, 1969, page 1505-1514.

D2) WO 9822457 A1

D1 shows compounds that are falling under claims 1 and 2 of the present application (4-methyl-2,3-diphenyl-1H-pyrrolo[2,3-b]pyridine, see table 2 page 1507 and 6-methoxy-2,3-diphenyl-1H-pyrrolo[2,3-b]pyridine, see page 1514, right column, line 43.

Consequently, claims 1-2 lack novelty.

The document D2 is regarded as being the closest prior art and discloses compounds that are overlapping with the compounds of the present claims. These compounds are used for the treatment of asthma and allergic rhinitis (see claim 43).

However, no compounds falling under the present claims have been exemplified.

Thus, the invention according to present claims 3-6 and 8-11 is novel.

The compounds according to the claimed invention differ from the closest exemplified compounds (see examples 3 and 4) only in that the substituent on the pyridine ring is other than amino.

The known structurally related compounds from D2 are said to act on TNF-alpha or interleukin mediated diseases instead of being inhibitors of the kinase Itk, although they are all used for treatment of asthma and allergic rhinitis.

The applicant has not shown that the structural differences render the claimed compounds unexpected effects in comparison with the known compounds.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

It is considered obvious to a person skilled in the art to modify structurally similar compounds to obtain the claimed compounds and come to the conclusion that they will have the same activity.

Thus, claims 3-6 and 8-11 are considered to fulfil the requirement of novelty, but not that of inventive step.